

All DOCUMENTS RELATED to the allegation at page 2 of the NOV that YOU conducted an “analysis of Oracle’s applicant data and appropriate workforce availability statistics,” including but not limited to, all draft analysis, COMMUNICATIONS, considerations, factors, data, and statistics considered, whether or not referred to in the NOV.

RESPONSE:

OFCCP objects to the entirety of this Interrogatory as it contains only a partial quote and may not reflect the intended allegations set forth in the NOV.

OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

OFCCP further objects to the phrase “communications” as overbroad and unduly burdensome.

OFCCP further objects to the phrases “considerations” and “considered” as vague and ambiguous.

OFCCP objects to this Interrogatory as overbroad with respect to the terms “facts,” “data” and “statistics” because these terms are not confined to the principal or material facts, data, or statistics of the case, but seeks the identity of each and every fact, data, or statistics, however minor, that may relate to the case.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699).

REQUEST FOR PRODUCTION NO. 78:

All DOCUMENTS RELATED to the allegation in Attachment A of the NOV that the “OFCCP analyzed Oracle’s employees’ compensation data by Oracle job function using a model

that included the natural log of annual salary as a dependent variable,” including but not limited to this analysis and all other models considered, conducted, or rejected, as well as different models, iterations and computations, whether or not referred to in the NOV.

RESPONSE:

OFCCP objects to the entirety of this Interrogatory as it contains only a partial quote and may not reflect the intended allegations set forth in the NOV.

OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP’s internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase “related to” as overbroad and unduly burdensome.

OFCCP further objects to the phrase “considered” and “rejected” as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP’s investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699).

REQUEST FOR PRODUCTION NO. 79:

All COMMUNICATIONS transmitted to, from, or between OFCCP compliance officers regarding the NOV and/or Amended Complaint filed against ORACLE.

RESPONSE:

OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal

Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "communications" as overbroad and unduly burdensome.

OFCCP further objects to the phrases "transmitted" and "regarding" as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699).

REQUEST FOR PRODUCTION NO. 80:

All DOCUMENTS RELATED to YOUR use of pay analysis groups under Directive 307 to determine if employees are similarly situated for purposes of the alleged violations that are included in both the NOV and Amended Complaint.

RESPONSE:

OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699).

REQUEST FOR PRODUCTION NO. 81:

All DOCUMENTS RELATED to any statistical analysis performed that RELATES to any of the violations alleged in the NOV or Amended Complaint. This request includes but is not limited to COMMUNICATIONS with statisticians, data RELATED to explanatory pay factors, draft and final statistical models, and statistical models listed in attachments to the NOV to the extent they RELATE to violations alleged in the Amended Complaint.

RESPONSE:

OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "communications" as overbroad and unduly burdensome.

OFCCP further objects to the phrase "related to" (including all variations) as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699).

REQUEST FOR PRODUCTION NO. 82:

All DOCUMENTS RELATED to any onsite inspection of the HQCA worksite in connection with YOUR compliance review, including but not limited to all notes, memoranda, or other DOCUMENTS memorializing the inspection.

RESPONSE:

OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP further objects to the phrases "in connection with" and "memorializing" as vague and ambiguous.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699).

REQUEST FOR PRODUCTION NO. 83:

All DOCUMENTS RELATED to any interviews YOU conducted to the extent they RELATE to the allegations in the Complaint.

RESPONSE:

OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" (including all variations) as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699).

REQUEST FOR PRODUCTION NO. 84:

All DOCUMENTS RELATED to any statements made to YOU by any THIRD PARTY, including but not limited to applicants or employees, regarding any of the allegations in Paragraphs 7 through 10 of the Amended Complaint.

RESPONSE:

OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "statements" as vague and ambiguous.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP further objects to the entirety of this request as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699).

REQUEST FOR PRODUCTION NO. 85:

All DOCUMENTS RELATED to any COMMUNICATIONS sent to or received by YOU from any THIRD PARTY RELATED to of the allegations in the NOV.

RESPONSE:

OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "communications" as overbroad and unduly burdensome.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP further objects to the entirety of this request as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699).

REQUEST FOR PRODUCTION NO. 86:

All DOCUMENTS RELATED to any anecdotal evidence of possible discrimination by ORACLE at HQCA.

RESPONSE:

OFCCP'S OBJECTIONS AND ANSWERS TO DEFENDANT ORACLE AMERICA, INC.'S REQUEST FOR PRODUCTION, SET ONE
(OALJ CASE NO. 2017-OFC-00006)

OFCCP objects to this Request to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects on relevance grounds. Materials reflecting OFCCP's internal deliberations and processes in its investigation are not relevant because they will not show, one way or the other, whether Oracle violated its equal opportunity obligations, including through engaging in systemic compensation and hiring discrimination.

OFCCP additionally objects to this Request to the extent it seeks documents that were created after March 11, 2016, which was the date the Notice of Violation was issued, because any such documents were created in anticipation of litigation and are protected by the work product doctrine, trial preparation privilege, and/or attorney-client privilege.

OFCCP further objects to the phrase "related to" as overbroad and unduly burdensome.

OFCCP further objects to the entirety of this request as overbroad and unduly burdensome.

Subject to and without waiving the foregoing objections, OFCCP will produce all non-privileged documents contained in OFCCP's investigative file for Oracle Redwood Shores (OFCCP Case No.: R00192699).

DATED: March 6, 2017

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Acting Solicitor of Labor

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OFCCP'S OBJECTIONS AND ANSWERS TO DEFENDANT ORACLE AMERICA, INC.'S REQUEST FOR
PRODUCTION, SET ONE
(OALJ CASE NO. 2017-OFC-00006)

OFCCP'S OBJECTIONS AND ANSWERS TO DEFENDANT ORACLE AMERICA, INC.'S REQUEST FOR
PRODUCTION, SET ONE
(OALJ CASE NO. 2017-OFC-00006)

CERTIFICATE OF SERVICE

I am a citizen of the United States of America and am over eighteen years of age. I am not a party to the instant action; my business address is 90 7th Street, Suite 3-700, San Francisco, CA 94103.

On the date indicated below, I served the foregoing **OFCCP'S OBJECTIONS AND ANSWERS TO DEFENDANT ORACLE AMERICA, INC.'S REQUEST FOR PRODUCTION, SET ONE** by electronic mail, by prior written agreement between counsel, to the following:

Connell, Erin M.: econnell@orrick.com

Kaddah, Jacqueline D.: jkaddah@orrick.com

James, Jessica R. L.: jessica.james@orrick.com

Siniscalco, Gary: grsiniscalco@orrick.com

I certify under penalty of perjury that the above is true and correct.

Executed: March 6, 2017

/s/ Laura C. Bremer

LAURA C. BREMER
Senior Trial Attorney

Office of the Solicitor
U.S. Department of Labor

EXHIBIT C

**UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES**

OFFICE OF FEDERAL CONTRACT
COMPLIANCE PROGRAMS, UNITED
STATES DEPARTMENT OF LABOR,

Plaintiff,

v.

ORACLE AMERICA, INC.,

Defendant.

OALJ Case No. 2017-OFC-00006

OFCCP No. R00192699

**OFCCP'S OBJECTIONS AND ANSWERS TO DEFENDANT ORACLE AMERICA,
INC.'S INTERROGATORIES, SET ONE (AS AMENDED)**

The United States Department of Labor, Office of Federal Contract Compliance Programs ("OFCCP"), by and through the Office of the Solicitor, hereby submits its objections and answers to Defendant Oracle America, Inc.'s Interrogatories, Set One (As Amended).

PRELIMINARY STATEMENT

Discovery in this matter is currently ongoing. Each and every following response is rendered and based upon information reasonably available to OFCCP at the time of preparation of these responses. OFCCP reserves the right to amend the responses to these Interrogatories as discovery progresses. OFCCP will provide supplemental responses in the event any further responsive material comes within its knowledge, possession, custody or control.

OFCCP has not completed its respective discovery in this action. OFCCP, therefore, specifically reserves the right to introduce any evidence from any source which may hereinafter be discovered in testimony from any witness whose identity may hereafter be discovered.

OFCCP'S OBJECTIONS AND ANSWERS TO DEFENDANT ORACLE AMERICA, INC.'S
INTERROGATORIES, SET ONE (AS AMENDED)
(OALJ CASE NO. 2017-OFC-00006)

GENERAL OBJECTIONS

1. OFCCP objects to each of Defendant's Interrogatories to the extent that it is premature at this early stage of discovery. At this time, many material facts supporting OFCCP's contentions remain uniquely in Oracle's custody and control. To date, OFCCP has not yet obtained significant discovery from Oracle, including data and documents that Oracle failed to produce during the compliance review (*see* Amended Complaint ¶¶ 1-15) and in this litigation, data and documents regarding Oracle's hiring and compensation practices outside the review period, and depositions of persons knowledgeable about Oracle's hiring and compensation practices. Federal Rule of Civil Procedure 33(a)(2) permits courts to protect parties from abusive interrogatories, particularly those served before discovery is complete, providing that when an interrogatory asks for "opinion or contention[.]" . . . the court may order that the interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time." Fed. R. Civ. P. 33(a)(2).

OFCCP's position is supported by ample authority in the Ninth Circuit. *See, e.g., Miles v. Shanghai Zhenhua Port Mach. Co.*, 2009 WL 3837523, at *1 (W.D. Wash. 2009) ("Contention interrogatories which 'systematically track all of the allegations in an opposing party's pleading, and that ask for 'each and every fact' and application of law to fact that support the party's allegations are an abuse of the discovery process because they are overly broad and unduly burdensome.") (*quoting Lucero v. Valdez*, 240 F.R.D. 591, 594 (D. N.M. 2007)) (permitting a plaintiff to rest on allegations in the complaint in response to a contention interrogatory a full eleven months into discovery); *see also Aldapa v. Fowler Packing Co. Inc.*, 310 F.R.D. 583, 591 (E.D. Cal. 201 5).

Courts in the Ninth Circuit also routinely reject a defendant's use of contention interrogatories when they attempt to prematurely narrow a plaintiff's case. *See, e.g., Advocare International, L.P. v. Scheckenbach*, 2009 WL 3064867, at *1 (W.D. Wash. 2009) (denying defendant's motion to compel a response to an "overly broad" contention interrogatory as "an

attempt to prevent the plaintiff from using any evidence or argument, other than that already provided”).

Moreover, courts have held that it is inefficient and burdensome to require a plaintiff to provide responses to contention interrogatories that would be incomplete during early phases of discovery, as would be the case here. *See In re eBay Seller Antitrust Litigation*, 2008 WL 5212170, at *2 (N.D. Cal. 2008) (denying defendant's motion to compel responses to contention interrogatories early in discovery because the plaintiff's answers “likely would be materially incomplete,” and given “the tentative nature of any responses generated at this stage,” they “would be of questionable value to the goal of efficiently advancing the litigation”); *E.E.O.C. v. Sterling Jewelers Inc.*, 2012 WL 1680811, at *8 (W.D. N.Y. 2012) (sustaining EEOC's objections to contention interrogatories as “premature or seeking information currently in [defendant's] own control”); *see also Campbell v. Facebook, Inc.*, 2015 WL 3533221, at *5 (N.D. Cal. 2015) (same, noting that the defendant had “better access to the information” sought). The Campbell court also rejected the defendant's request that the plaintiff be ordered to update answers to interrogatories over the course of litigation, explaining that “[i]t strikes the Court as unnecessarily burdensome to constantly revise and update such responses.” *Id.* at *6. Defendant's contention interrogatories served on OFCCP are wholly inappropriate at this time for all of the same reasons.¹

2. OFCCP objects to each of Defendant's Interrogatories to the extent that they seek information subject to any privilege, including but not limited to: the attorney-client privilege,

¹ Moreover, numerous other courts in the Ninth Circuit have rejected the use of contention interrogatories in similar contexts. *See, e.g., Amgen, Inc. v. Sandoz, Inc.*, 2016 WL 1039029, at *4 (N.D. Cal. 2016) (“[Defendant] has not demonstrated that its interrogatory is appropriate at this stage as it has not shown how responding to its interrogatories before substantial discovery has been conducted will contribute meaningfully to clarifying the issues in the case or narrowing the scope of the dispute.”); *Cardoza v. Bloomin' Brands, Inc.*, 2015 WL 3875916, at *1-2 (D. Nev. 2015) (holding that contention interrogatories served shortly after the opening of discovery and ten months before its close were premature); *Folz v. Union Pac. R.R. Co.*, WL 357929, at *2 (S.D. Cal. 2014) (“[C]ourts are reluctant to allow contention interrogatories, especially when the responding party has not yet obtained enough information through discovery to respond.”); *S.E.C. v. Berry*, WL 2441706, at *4 (N.D. Cal. 2011) (“Contention interrogatories asking for ‘each and every fact,’ or application of law to fact, that supports particular allegations in an opposing pleading may be held overly broad and unduly burdensome.” (quoting *Schwarzer et al., Cal. Prac. Guide: Fed. Civ. Pr. Before Trial* § 11:1682 (The Rutter Group 2010))).

attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, trial preparation privilege, or any other privilege or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

3. OFCCP objects to each of Defendant's Interrogatories to the extent that they seek any documents or information previously produced or not within OFCCP's custody, possession, or control.

4. OFCCP objects to each of Defendant's Interrogatories to the extent that they seek any documents or information that is irrelevant or otherwise beyond the scope of discovery permitted in this proceeding.

5. OFCCP objects to the "DEFINITIONS AND INSTRUCTIONS" section as containing vague, ambiguous, and unintelligible definitions, and seeking to impose additional requirements on OFCCP that exceed and/or are inconsistent with the Federal Rules of Civil Procedure, Judge Larsen's Pre-Hearing Order, 29 C.F.R. Part 18, and 41 C.F.R. 60-30.

6. OFCCP objects to each of Defendant's Interrogatories to the extent they seek discovery that is not proportional to the needs of the case. Proportionality includes the parties' relative access to relevant information. Fed. R. Civ. P. 26(b)(1). To the extent that Oracle possesses documents or has information that OFCCP does not, including discovery requested by OFCCP but not yet produced by Oracle, OFCCP properly objects. OFCCP further objects to each of Defendant's Interrogatories as being premature to the extent they ask OFCCP to provide information to Oracle that Oracle has prevented OFCCP from obtaining.

7. OFCCP objects to each of Defendant's Interrogatories to the extent they assert or presume that OFCCP was required to allege statistical data in its Amended Complaint. To the contrary, in *OFCCP v. JPMorgan Chase & Co.*, 2017-OFC-00007, at 2 (Apr. 5, 2017), the ALJ recently denied a motion to dismiss that had argued that OFCCP was required to summarize the regression analysis in the Complaint. Instead, the ALJ found that the allegation "that the

discrimination is supported by statistical evidence” was sufficient to put the contractor on notice of the violations and satisfied the pleading requirements of 41 C.F.R. § 60-30(b). *Id.* at 6. Statistical data supporting OFCCP’s claims of discrimination will be developed and refined, during and after discovery. Any attempt to bind OFCCP, though these interrogatories, to a particular set of statistics at the pleading stage would be both unfair and inefficient. *See Jenkins v. N.Y. City Transit Auth.*, 646 F.Supp.2d 464, 469 (S.D. N.Y. 2009)(“It would be inappropriate to require a plaintiff to produce statistics to support her disparate impact claim before the plaintiff has had the benefit of discovery”). The time for assessing OFCCP’s statistical evidence, including whether it accounts for all relevant variables, is after discovery has closed and the case is tried. *See Barrett v. Forrest Laboratories, Inc.*, 39 F.Supp.3d 407, 430 (S.D. N.Y. 2014). Furthermore, it is impossible for OFCCP to make any refinements to statistics in this case until Defendants produce the myriad relevant records they refused to provide to OFCCP and have not yet provided in discovery.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify each PERSON by name, title, role, and last known contact information who participated in the “COMPLIANCE REVIEW” referenced in Paragraph 6 of the Amended Complaint, whether by way of providing interviews, conducting interviews, providing information, requesting information, or assessing or reviewing the information provided.

RESPONSE:

OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government’s deliberative process privilege, the governmental privilege for investigative files and techniques, the government’s informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil

Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP further objects to the term "participated in" as vague and ambiguous because it is not clear what constitutes participation. In the widest sense of the term, participation might include individuals who had no meaningful role in the Compliance Review, such as technical personnel that maintain systems relevant to the investigation but have no knowledge of the actual investigation. OFCCP also objects to the term "role" as vague and ambiguous. For example, "role" could mean the actions that the person took or the person's formal title.

OFCCP also objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case because for OFCCP to fully answer this Interrogatory, OFCCP would need to literally interview thousands of Oracle employees to include employees in supervisory and management positions to ascertain everyone who provided information that OFCCP obtained during the compliance review. This would include people involved with the databases, who built spreadsheets or populated some, who were involved in collecting documents, etc.

OFCCP again objects to the Interrogatory as being unduly burdensome, overly broad, not relevant, oppressive and not proportional to the case for OFCCP to interview potentially thousands of employees to obtain their last known contact information when Oracle is already in possession of this information.

OFCCP further objects to the Interrogatory because it seeks each individual's contact information for persons' represented by counsel. OFCCP's personnel (current or former) may be contacted through OFCCP's counsel at the Office of the Solicitor.

OFCCP still further objects because the Interrogatory calls for speculation if Oracle does not make everyone who was involved in providing information that OFCCP received during the compliance review, to include managers and supervisory personnel, available to OFCCP so that OFCCP can fully identify everyone who provided information for the compliance review.

Subject to and without waiving the foregoing objections, OFCCP responds that the following persons, excluding OFCCP attorneys at the Office of the Solicitor, that may have, in some capacity, "participated in" or "provid[ed] information" for the compliance review include Oracle's management and supervisory employees, people in Oracle's human resources and/or personnel departments, Oracle employees or agents involved in its compliance with the Executive Order and implementing regulations identified in this litigation, people involved in securing and processing information provided to OFCCP, etc., and the following OFCCP personnel.

1. Janette Wipper, Regional Director
2. Jane Suhr, Deputy Regional Director
3. Robert Doles, District Director
4. Hea Jung Atkins, Special Assistant
5. Brian Mikel, Area Office Director
6. Hoan Luong, Compliance Officer
7. Anna Liu, Compliance Officer
8. Jennifer Yeh, Compliance Officer
9. Milton Crossland, Compliance Officer
10. Molly Almeida, Compliance Officer
11. Francisco Melara, Regional Liaison
12. Shirong (Andy) Leu, Statistician
13. Robert LaJeunesse, Branch Chief of Expert Services

INTERROGATORY NO. 2:

State all facts that support the allegation in Paragraph 7 of the Amended Complaint that "Oracle discriminated against qualified female employees in its Information Technology, Product Development and Support lines of business or job functions at Oracle Redwood Shores based upon sex by paying them less than comparable males employed in similar roles."

OFCCP'S OBJECTIONS AND ANSWERS TO DEFENDANT ORACLE AMERICA, INC.'S
INTERROGATORIES, SET ONE (AS AMENDED)
(OALJ CASE NO. 2017-OFC-00006)

RESPONSE:

OFCCP incorporates the general objections stated above, and further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, attorney work-product doctrine, the government's deliberative process privilege, the governmental privilege for investigative files and techniques, the government's informant privilege, the trial preparation privilege described in Rule 26(b)(3) of the Federal Rules of Civil Procedure, or exemption provided by the Rules of Practice, Federal Rules of Civil Procedure or Evidence, or the common law.

OFCCP objects to this contention Interrogatory as overly broad and unduly burdensome because OFCCP should be provided the opportunity to conduct discovery and maintain flexibility about its contentions before responding to contention interrogatories, as the information necessary to respond to this Interrogatory becomes more readily available. *See* cases cited in General Objection No. 1. OFCCP further objects to this Interrogatory as premature because OFCCP has only obtained minimal discovery from Oracle because Oracle refused to provide a person for the Rule 30(b)(6) deposition that OFCCP noticed, refused to produce any documents pending a protective order to include not even producing responsive documents that were not covered by the protective order, and has produced information responsive only to a fraction of OFCCP's discovery requests. Furthermore, OFCCP objects to this premature Interrogatory because Oracle is attempting to benefit from its unclean hands of repeatedly failing to produce requested information during the compliance review and obstructing OFCCP's ability to acquire this same information during discovery. For example, as repeatedly identified in the documents that OFCCP produced during this litigation and the underlying investigation, Oracle failed to produce: applicant and hiring data, such as data regarding name of school attended and prior degrees earned, years of prior work experience and prior salary before being hired by Oracle, compensation data such as the 1/13/13 snapshot, Oracle's pay equity analysis, employee personnel actions, employee contact information, data